

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THOMAS SMITH,

Plaintiff,

Case No. 1:07-cv-875

v

HON. JANET T. NEFF

BARBARA SAMPSON, et al.,

Defendants.

JUDGMENT

Plaintiff, a state prisoner, filed this civil rights action pursuant to 42 U.S.C. § 1983, alleging claims arising from the denial of his parole by members of the Michigan Parole Board. On September 13, 2007, the Magistrate Judge filed a Report and Recommendation, recommending that the action be dismissed upon initial screening pursuant to 28 U.S.C. § 1915A(b) for failure to state a claim. The matter is presently before the Court on plaintiff's objection to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which plaintiff makes his objection. The Court denies the objection.

In pertinent part, the Magistrate Judge determined that plaintiff cannot state a claim under the Due Process Clause because he has no liberty interest in being released on parole. Report and Recommendation at 6. Plaintiff argues that the Magistrate Judge misconstrued or misunderstood his allegations. According to plaintiff, he is not advancing a "liberty interest argument" but a procedural challenge to the manner in which the parole board conducts parole interviews.

Plaintiff's argument does not merit a different result.

The Magistrate Judge did not overlook the procedural aspects of plaintiff's claim. The Magistrate Judge specifically indicated that "[b]ecause Plaintiff has no liberty interest at stake, he fails to state a claim for a violation of his procedural due process rights." Report and Recommendation at 7-8. The Magistrate Judge's due process analysis contains no error.

For these reasons and because plaintiff is proceeding *in forma pauperis*, this Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Judgment would not be taken in good faith. See *McGore v. Wigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997).

THEREFORE, IT IS ORDERED that the objection (Dkt 7) is DENIED and the Report and Recommendation (Dkt 6) is APPROVED and ADOPTED as the opinion of the Court.

IT IS FURTHER ORDERED that the Complaint (Dkt 1) is DISMISSED pursuant to 28 U.S.C. § 1915A(b) for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that the Court certifies pursuant to 28 U.S.C § 1915(a) that an appeal of the Judgment would not be taken in good faith.

Date: August 27, 2008

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge